

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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WILLIAM K. DUFFY, KENNETH HUBER,
PHILLIP CAPOBIANCO, JOHN DUFFY,
PAUL O'BRIEN, MARC HERBST, JAMES
HANEY, JR., JAMES PRATT III, SCOTT
ADRIAN and ROBERT AHEARN, as Trustees
of Local 138, 138A & 138B,
INTERNATIONAL UNION OF OPERATING
ENGINEERS, WELFARE FUND, LEGAL FUND,
APPRENTICESHIP TRAINING FUND, and
ANNUITY FUND, MICHAEL FANNING as CEO
of the CENTRAL PENSION FUND,

Plaintiffs,
-against-

ORDER ADOPTING REPORT &
RECOMMENDATION
07-CV-962 (JS)(AKT)

MODERN CONCRETE CORP.,

Defendant.

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APPEARANCES:

For Plaintiff: Anthony Lumia, Esq.
Archer, Byington, Glennon & Levine, LLP
425 Broadhollow Road
Suite 405
Melville, NY 11747

For Defendant: No Appearance

SEYBERT, District Judge:

Upon review of the Report and Recommendation ("Report")
of Magistrate Judge A. Kathleen Tomlinson, issued March 10, 2008,
to which no party has objected, the Court hereby ADOPTS the Report
in its entirety.

Pursuant to Rule 72 of the Federal Rule of Civil
Procedure, any objections to the Report were to be filed with the
Clerk of the Court within ten days of service of the Report. The
time for filing objections has expired and no Party has objected.

Accordingly, all objections are hereby deemed to have been waived.

The Court ADOPTS the Report in its entirety and ORDERS that default judgment be entered against Defendant in the amount of \$52,202.81 for unpaid fringe benefits, \$3,371.43 in interest on the unpaid fringe benefits, \$10,440.56 in liquidated damages, and \$7,425.00 for attorneys' fees and costs, for a total of \$73,439.80. Further, within thirty (30) days after receiving notice of entry of default, Defendant must permit Plaintiffs to audit Defendant's books and records, and to cooperate in such audit, as to Defendant's payments of fringe benefit contributions pursuant to the terms of the parties' Collective Bargaining Agreement.

SO ORDERED

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: Central Islip, New York
March 25, 2008